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West Virginia Statutes

Chapter 29B Freedom of Information, 1997
Supplement

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Description Appendix N)

CHAPTER 29B. FREEDOM OF INFORMATION.

ARTICLE 1. PUBLIC RECORDS.

Construction.

In accord with bound volume. *Town of Burnsville v. Cline*, 188 W. Va. 510, 425 S.E.2d 186 (1992).

Cited in *State ex rel. Billy Ray C. v. Skaff*, 194 W. Va. 178, 459 S.E.2d 921 (1995); In re *Allen*, 106 F.3d 582 (4th Cir. 1997).

§ 29B-1-1. Declaration of policy.

Construction of chapter. — The disclosure provisions of this chapter are to be liberally construed. *Ogden Newspapers, Inc. v. City of Williamstown*, 192 W. Va. 648, 453 S.E.2d 631 (1994).

Disclosure by the public service commission. — As an administrative agency, the public service commission (PSC) has a responsibility to disclose as much information to the public as it can, and the standard for determin-

ing the likely harm from disclosure is governed by the Freedom of Information Act, § 29B-1-1 et seq. *AT & T Communications of W. Va., Inc. v. Public Serv. Comm'n*, 188 W. Va. 250, 423 S.E.2d 859 (1992).

Cited in *United States v. ReBrook*, 837 F. Supp. 162 (S.D.W. Va. 1993); *Thompson v. West Virginia Bd. of Osteopathy*, 191 W. Va. 15, 442 S.E.2d 712 (1994); *Keegan v. Bailey*, 191 W. Va. 145, 443 S.E.2d 826 (1994).

§ 29B-1-2. Definitions.

Criminal history summary. — A criminal history summary is a public record, and the trial court was correct in giving an instruction to that effect to the jury. *State v. Nelson*, 189 W. Va. 778, 434 S.E.2d 697 (1993).

Police reports. — Police incident reports

are "public records". *Ogden Newspapers, Inc. v. City of Williamstown*, 192 W. Va. 648, 453 S.E.2d 631 (1994).

Cited in *State ex rel. Paige v. Canady*, 197 W. Va. 154, 475 S.E.2d 154 (1996).

§ 29B-1-3. Inspection and copying.

Applied in *Ogden Newspapers, Inc. v. City of Williamstown*, 192 W. Va. 648, 453 S.E.2d 631 (1994).

Quoted in *State ex rel. Paige v. Canady*, 197

W. Va. 154, 475 S.E.2d 154 (1996).

Cited in *State ex rel. Dadisman v. Caperton*, 186 W. Va. 627, 413 S.E.2d 684 (1991).

§ 29B-1-4. Exemptions.

Law enforcement records.

In accord with 3rd paragraph in bound volume. *Ogden Newspapers, Inc. v. City of Williamstown*, 192 W. Va. 648, 453 S.E.2d 631 (1994).

To the extent that information in a police incident report dealing with the detection and investigation of crime will not compromise an ongoing law enforcement investigation, there is a public right of access. *Ogden Newspapers, Inc. v. City of Williamstown*, 192 W. Va. 648, 453 S.E.2d 631 (1994).

Criminal history summary. — Because a criminal history summary is a public record, the trial court was correct in giving an instruction to that effect to the jury. *State v. Nelson*, 189 W. Va. 778, 434 S.E.2d 697 (1993).

Names of juvenile defendants exempted.

— When incidents affecting public safety and welfare can be publicized without revealing the identities of juveniles involved by means other than the application of a blanket rule of non-disclosure, an incident report should be released to the press with the names of any

juveniles redacted; redact intrusive means of protecting juveniles, while respecting *Ogden Newspapers, Inc. v. Williamstown*, 192 W. Va. (1994).

Taxpayer rolls. — It is a confidentiality requirement that permit a review of the records of occupation (B & O) taxpayers or company involved in taxation is assumed to pay. The list would contain only the taxpayers, not the actual contributors. *Town of Burnsville*, 192 W. Va. 510, 425 S.E.2d 186 (1992).

State records. — Unredacted warrants are presumed property as defined by records of state dated war

§ 29B-1-5. Enforcement.

Quoted in *Ogden Newspapers, Inc. v. Williamstown*, 192 W. Va. (1994).

§ 29B-1-7. Attorney fees.

Quoted in *State ex rel. Paige v. Canady*, 197 W. Va. 154, 475 S.E.2d 154 (1996).

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PUBLIC RECORDS

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juveniles redacted; redaction offers the least intrusive means of protecting the identity of juveniles, while respecting the right of public. Ogden Newspapers, Inc. v. City of Williamstown, 192 W. Va. 648, 453 S.E.2d 631 (1994).

Taxpayer rolls. — It would not violate the confidentiality requirements of § 11-10-5d(a) to permit a review of the roll of business and occupation (B & O) taxpayers since every person or company involved in a business or occupation is assumed to pay B & O taxes, and the list would contain only the names of the taxpayers, not the actual contents of the tax returns. Town of Burnsville v. Cline, 188 W. Va. 510, 425 S.E.2d 186 (1992).

Stale records. — Unless records of stale dated warrants are presumed to be abandoned property as defined by § 36-8-8b(a), such records of stale dated warrants are subject to

disclosure pursuant to the Freedom of Information Act. Keegan v. Bailey, 191 W. Va. 145, 443 S.E.2d 826 (1994).

Issuance of protective orders. — In order to obtain a protective order from the public service commission to prevent the disclosure of annual report information, a utility must make a credible showing that the information is a "trade secret" as described in subdivision (1) of this section. AT & T Communications of W. Va., Inc. v. Public Serv. Comm'n, 188 W. Va. 250, 423 S.E.2d 859 (1992).

The public service commission applies the same standards that the courts apply in determining what information should be covered by protective orders; which is embodied in RCP 26(c). AT & T Communications of W. Va., Inc. v. Public Serv. Comm'n, 188 W. Va. 250, 423 S.E.2d 859 (1992).

§ 29B-1-5. Enforcement.

Quoted in Ogden Newspapers, Inc. v. City of Williamstown, 192 W. Va. 648, 453 S.E.2d 631 (1994).

Cited in State ex rel. Paige v. Canady, 197 W. Va. 154, 475 S.E.2d 154 (1996).

§ 29B-1-7. Attorney fees and costs.

Quoted in State ex rel. Paige v. Canady, 197 W. Va. 154, 475 S.E.2d 154 (1996).